

FEDERAL COMMUNICATIONS COMMISSION
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October 31, 2008

James P. Riley, Esq.
Fletcher, Heald & Hildreth, PLC
1300 North 7th Street, 11th Floor
Arlington, Virginia 22209-3801

Re: Chesapeake-Portsmouth Broadcasting Corporation
WLES (AM), Bon Air, Virginia
Facility Identification Number: 72504
Special Temporary Authority

Dear Counsel:

This is in reference to the request filed October 28, 2008, on behalf of Chesapeake-Portsmouth Broadcasting Corporation ("CPBC"). CPBC requests special temporary authority ("STA") to operate Station WLES pursuant to Section 73.1615.¹ In support of the request, CPBC states that it is in the process of completing construction of modified WLES facilities as authorized by Construction Permit BP-20071119AKH (*See* Note 1, below); however, the special operating conditions of the permit prevent immediate commencement of operation.

Our review indicates that the special operating conditions of the permit require coordination of the proposed frequency change with Station WLVA; however, in support of its request, CPBC submits a letter from the WLVA licensee which states that the currently licensed WLVA facilities have been dismantled and that WLVA is silent pending implementation of its authorized frequency change to 580 kHz². Thus, there is no question of conflict with the licensed operation of WLVA on 590 kHz. We further note that the WLES permit authorizes diplexed operation with Station WXGI; the STA will include appropriate conditions.

Accordingly, the request for STA IS HEREBY GRANTED. Station WLES may operate on 590 kHz with the facilities authorized by Construction Permit BP-20071119AKH. It will be necessary to reduce power or cease operation if complaints of interference are received. Operation shall not commence until sufficient diplexing equipment has been installed and properly adjusted to reduce all spurious emissions below the levels specified in 47 CFR Section 73.44(b). Within 10 days after commencement of operation, CPBC must submit the results of measurements which demonstrate compliance with the above condition, along with a copy of a signed agreement

¹ WLES is licensed for operation on 580 kHz with 0.201 kilowatt daytime and 0.027 kilowatt nighttime, employing a nondirectional antenna (ND-2-U). Construction Permit BP-20071119AKH authorizes a change in frequency to 590 kHz and operation with 0.6 kW daytime and 0.058 kW nighttime.

² *See* Construction Permit BP-20071119AKG.

between the licensees of Stations WLES and WXGI which clearly sets forth the responsibilities for installation and maintenance of the diplexing equipment. CPBC must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **May 1, 2009**.

STA Advisory: Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or
- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles N. Miller", with a stylized flourish at the end.

Charles N. Miller, Engineer
Audio Division
Media Bureau

cc: Chesapeake-Portsmouth Broadcasting Corporation